

Internal Revenue Service
District Director

Department of the Treasury

Post Office Box 1680, GPO
Brooklyn, NY 11202

Date: JUN 23 1993

Person to Contact:

Contact Telephone Number:

Refer Reply to:

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption under section 501(c)(6) of the Internal Revenue Code.

The evidence presented discloses that you were incorporated on [REDACTED], under section [REDACTED] of the Not-For-Profit Corporation Law of the State of [REDACTED].

The purposes for which the Corporation is formed are to consolidate and distribute freight on a nonprofit basis on behalf of importers of consumer electronics and related merchandise who shall be members of the Corporation in order to secure carload, truckload, or other rates or Service Contracts, and to perform all lawful and proper services and activities related thereto. The application discloses that the organization's activity is to negotiate ocean transportation service contracts on behalf of its members, importers of consumer electronics, in order to secure volume discounts.

In a letter dated [REDACTED], [REDACTED], Secretary/Executive Director of the organization states that the purpose of the organization is to bring economies of scale to its members. She further states that "Based on past negotiations, our smallest shippers could save as much as \$[REDACTED] per containers in ocean freight." [REDACTED] concludes by saying that "However, on the average, most shippers save approximately \$[REDACTED] per container and they pledge approximately [REDACTED]-[REDACTED] containers a year."

Financial information in the application indicates that the organization anticipated receiving \$[REDACTED] in membership dues for the year ending [REDACTED]. The letter dated [REDACTED], states that membership dues are \$[REDACTED] per year. The organization anticipates receiving \$[REDACTED] for the year ending [REDACTED] from charges incurred on a per container basis for all cargo shipped under contracts negotiated. The organization bases the \$[REDACTED] on charges of \$[REDACTED] per container for [REDACTED] containers caveats [REDACTED].

Section 501(c)(6) of the Code provides for the exemption from Federal income tax of business leagues not organized for profit, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(6)-1 of the Income Tax Regulations defines a business league as an association of persons having some common business interest, the purpose of which is to promote such common interest. Its activities should be directed towards the improvement of business conditions in one or more lines of business as distinguished from the performance of particular services for individual persons.

Section 1.501(c)(6)-1 of the Income Tax Regulations further states that an organization whose purpose is to engage in a regular business of a kind ordinarily carried on for profit, even though the business is conducted on a cooperative basis or produces only sufficient income to be self-sustaining is not a business league.

In Revenue Ruling 68-264, 1968-1 C.B. 264 an organization that provided services for members and nonmembers in the shipment of their goods and products was held not to qualify for exemption under section 501(c)(6) of the Code on the basis that their activities constituted the performance of particular services for individual persons. One of the services they provided was quotations of freight rates.

The information available demonstrates that like the organization described in Revenue Ruling 68-264 you are providing a particular service for individual members in negotiating ocean transportation contracts for them in order to secure volume discounts. Your activities are directed to providing a convenience and economy to your members in the conduct of their respective business instead of primarily engaging in activities for the improvement of business conditions within the shipping industry.

The negotiation of contracts to secure volume discounts for members is engaging in a regular business of kind ordinarily carried on for a profit. Primary activities that constitute a regular business of a kind ordinarily carried on for profit will preclude exemption from Federal Income Tax under section 501(a)(6) of the Code.

Accordingly, we conclude that you do not meet the requirements for exempt status under section 501(c)(6) of the Code and propose to deny your request for exemption under that section.

We have also determined that you fail to qualify for exempt status under any other subsection of IRC 501(c).

You are required to file a taxable return Form 1120 or 1041 with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service, P.O. Box 1680, General Post Office, Brooklyn, NY 11202.

If you do not agree with this determination, you may request a Conference with the Regional Director of Appeals by protesting in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completion.

If we do not hear from you within that time, this determination will become final.

Sincerely yours,

A solid black rectangular box used to redact the signature of the District Director.

District Director

Enclosure: Publication 892